

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director/ (954) 797-1101

SUBJECT: Ordinance

AFFECTED DISTRICT: Townwide

TITLE OF AGENDA ITEM:

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CREATING CHAPTER 18, ENTITLED COST RECOVERY, PROVIDING FOR COST RECOVERY TO REIMBURSE THE TOWN OF DAVIE FOR THE DIRECT COSTS INCURRED BY THE PROCESSING OF APPLICATIONS FOR DEVELOPMENT PERMITS; CONTAINING PROVISIONS FOR COST RECOVERY METHODS; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR PROCESSING AND REVIEW PROCEDURES; PROVIDING FOR DISPUTE RESOLUTION; PROVIDING FOR ACCOUNTING; PROVIDING FOR MONITORING AND EVALUATION; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The proposed Ordinance addresses the issue of recovering the full cost for the processing of development review application, included, but not limited to, site plan applications, rezonings, land use plan amendments, and variances. The Ordinance provides for fast tracking of applications, providing for reimbursement of supplemental services required by an outside specialist, and also ensures that all application items are equitably charged for the cost of their review.

PREVIOUS ACTIONS: The Town Council reviewed and approved, with modifications, the Cost Recovery Ordinance at the July 10, 2002 meeting.

CONCURRENCES: None. This item shall be reviewed by the Planning and Zoning Board, the Budget Advisory Committee, and Economic Development Committee prior to final reading and adoption.

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds Ordinance complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Ordinance, Exhibit A: Fee Schedule

ORDINANCE _____

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WHEREAS, the Town Council of the Town of Davie desires to assure that the Town fairly assesses Developers for the cost of providing the services necessary to issue development permits and services; and;

WHEREAS, the current system of fees related to development matters, unfairly subsidizes the cost with taxpayers revenue; and

WHEREAS, the Cost Recovery Ordinance fairly redistributes the cost involved to the Town in providing development services and development matters; and

WHEREAS, this Cost Recovery Ordinance is believed to be fair and equitable to both taxpayers and developers as concern the cost of development services and development matters, and

WHEREAS, the Cost Recovery System, as set forth in this Ordinance providing for true cost recovery, fast tracking of development applications, and providing for a supplemental services method.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That Chapter 18, of the Town Code is created to read as follows:

Chapter 18 Cost Recovery Program

Article I. GENERAL PROVISIONS

Sec. 18-1. Title

These regulations shall be known and referred to as the Town of Davie Cost Recovery Program and shall include the Fee Schedule, as approved by Town Council, and attached as 'Exhibit A' to this Ordinance. ~~all associated Fee Schedules referenced herein.~~

Sec. 18-2. Legislative Purpose and Intent

- (A) The Davie Town Council has hereby determined that the costs related to the review and processing of development applications shall not be subsidized by the general taxpayer and citizenry of the Town. Therefore, the Town has determined that the most practical and consistently accurate method of defraying the costs of development review and processing functions is through the assessment of fees based upon the actual time expended by Town Employees and directly associated expenses including but not limited to advertising and legal fees.

Sec. 18-3. Definitions

- (A) When used in this Chapter, the following words shall have the meanings ascribed herein unless the text indicates otherwise:

Alternate Cost Recovery. A fast track method of Cost Recovery whereby the applicant of a development application opts to utilize consulting services to review its development application in conjunction with Town staff. The Town would still recover their costs with Town staff serving as project manager and secondary reviewers of the application.

Cost Recovery Account. For accounting purposes an account with the Town of Davie financed by an applicant for the purpose of covering costs incurred during the review and processing of a development application.

Cost Recovery Program. A program established for recovering the full costs of reasonably borne expenses related to the review and processing of development applications such that general revenues are not diverted from general services of a broad nature and thereby utilized to subsidize unfairly and inequitably the resulting development review costs.

Direct Costs. Those expenses which can be charged directly as a part of the cost of a product or service or a Department or Operating Unit as distinguished from overhead and other indirect costs which must be prorated among several products or services, departments or operative units.

Exempted Entity. Any individual, partnership, corporation, developer or other association that qualifies for an exemption to the Cost Recovery Program due to its size or other exemption factor.

Fringe Benefits. Non Wage Benefits (e.g., Paid vacation, life insurance, pensions, etc.) and any other special terms and conditions and privileges of employment which may supplement regular salaries or wages whose cost are borne in whole or part by the Town.

Major Review Phases. Individual phases within the Town's development review processes including application submission, Development Review Committee (DRC/Review, Planning & Zoning Board/Site Plan Committee Review, and Town Council review and approval. In the case of the site plans, a major review phase includes final staff review and approval.

Professional Service Charges. Charges resulting from the use of consultants performing professional services as an alternative to the other methods constituting the Cost Recovery Program

Project Account. For accounting purposes a separate and singular applicant account under the general cost recovery account relating to a development application. A project account is the financial account associated with each development application in the Cost Recovery Program.

Supplemental Services. A deemed necessary service requested by an applicant and/or the Town Administrator or his/her designee for the proper processing of any development application including but not limited to drafting development agreements; reviewing or drafting deed restrictions, drafting or reviewing of special documents including agreements, deeds, conveyances, security instruments, restrictive covenants or special conditions; the preparation, review and analyses of traffic studies, environmental studies and legal analyses; and any action necessary for completion of the development application. This term shall also include any service provided by other Town Departments, Town Administrator or outside consultant in excess of those services normally required to review an application for development permit.

Sec. 18-4. Methods of Cost Recovery

(A) Cost Recovery efforts will be conducted by the Town under the following methods.

1. **Primary Processing Method.** This method requires the applicant to pay for all costs incurred by the Town as a result of employee time spent processing and review of the application (including fringe benefits) and direct costs and expenses attributed to the project.
2. **Fast Track Processing Method.** Under this method, an applicant's submission may be processed under two alternates indicated below.

(a) Priority Review – In this method, an application is processed under the primary processing method except that the applicant pays an additional fee to designate the application as a priority and the application is given this priority status over other filed applications under review.

(b) Alternate Cost Recovery – Based upon a fee schedule provided by the Town, an applicant selects a professional consultant services firm to perform the review of the applicant's development application. The applicant is responsible for professional service charges at the actual cost for the performance of the professional services plus all costs generated by the Town Staff as project managers, secondary reviewers and administrative oversight of the development application.

3. **Supplemental Services Method.** This Cost Recovery method is basically implemented as the primary processing method excepting that any type of consultant or legal expertise is utilized to supplement the primary method. All additional professional services are charged to the applicant at the actual cost for the performance of the professional service in concert with the Town's Fee Schedule for such services.

Sec. 18-5. Exemptions

- (A) An entity may elect to take an exemption from the Cost Recovery Program if it meets one or several of the criteria outlined in this section. When taking an exemption, the exempted entity shall be required to pay the review and processing fee set in the Town's Fee Schedule for the application type being processed.
- (B) An exempted entity may qualify for an exemption to the Cost Recovery Program if it meets one or more of the following criteria
 1. Any development applications related to Single Family Property Owners;
 2. Applications for site plan modifications that expire after the one-year period;
 3. Site Plan Amendment to an existing development that increase/decrease a building foot print by less than 20%; ~~Building foot print of 20% or less per individual building on a site;~~
 4. Site Plan Amendment to an existing development that ~~increases/decrease the impervious area by less than 20%; An increase in impervious surface area less than 20% of the existing impervious area;~~ and
 5. Site Plan Amendments deemed a non-material modification, consistent with Land Development Code Section 12-374(B);
 6. Development proposed by any tax-exempt status non-profit agency;
 7. Parcels of land zoned B-1, Neighborhood Business or RO, Residential Office and under one (1) acre in size, shall be deemed a small business entity, and likewise, shall be exempt from Cost Recovery;

8. Replats or plats for parcels of land five (5) acres or under in size, when an existing single family home is located on said parcel.

Sec. 18-6. Processing and Review

The following shall apply to the processing for development applications:

- (A) **Fees.** Applicants shall be required to pay initial filing fees per the Town's Fee Schedule. If additional fees are necessary, the applicant will be asked to pay such fees on or prior to each major review phase of the Town's processing procedures.
- (B) **Refunds.** In the event that an application is withdrawn within 30 calendar days after an application submittal, non-expended remaining funds will be refunded. No refund will be allowed after this 30-day period.
- (C) **Pre-application meeting.** At the time of the required pre-application meeting, staff and the applicant shall determine which method of cost recovery shall be utilized and any supplemental services required, (through mutual consent) as determined due to the nature of the development application. Any supplemental services required after the time of application submittal shall utilize the Town's supplemental services consultants, as available.
- (D) **Determination and Timing of Scope of Work and Fees.** The Town shall provide the applicant with a reasonable estimate of any necessary supplemental services within a 30-day time period after the initial application filing. The foregoing should not preclude the Town from requesting any additional supplemental services as may be determined throughout the review process.

Sec. 18-7 Dispute Resolution Procedures

If any dispute or difference in interpretation arises relative to the imposition of costs, the necessity for supplemental services, or any other related matter between the Town and/or the applicant under this ordinance or during processing of an application or related approvals, then a dispute resolution process may be invoked according to the following procedures:

- (A) Within five (5) working days after a request by the applicant and/or the Town, the ~~Town Administrator-Director of Development Services~~ shall review the disputed matter and make a recommendation to resolve this matter to the affected parties;
- (B) Any party may request within five (5) working days after the ~~Town Administrator's Development Services Director's~~ determination that the matter be reviewed by the ~~Town Council Administrator~~. The approval process shall not exceed 45 calendar days.
- (C) Processing fees for appeals to the ~~Development Services Director and/or~~ Town Administrator shall be paid by the applicant (10% of the original filing fee, pursuant to the Fee Schedule).

Sec. 18-8. Accounting

- (A) The Town's Finance Department shall establish an account to be known as the Town's Cost Recovery account.
- (B) At the time of development application submittal and provision of the initial deposit, a project account shall be established for the development application in accordance with the Town's internal accounting procedures. As indicated in Sec. 18.6(A) of this Chapter, additional deposits are required of the applicant at each major review phase, as defined in Section 18-3(A), of the application's processing.
- (C) At the Town Council major review phase the applicant will be required to pay all additional costs in arrears, prior to the item being scheduled before Town Council. Any additional costs resulting from Town Council review shall be paid upon invoice by the Town. No building permit shall be issued by the Town until all cost obligations are satisfied by the applicant.

Sec. 18-9. Monitoring and Evaluations

The purpose of this section is to ensure that the Cost Recovery Program is recovering the full costs reasonably borne by the taxpayers of the Town of Davie for Development Review applications through a systematic process established to provide for quarterly monitoring of the overall Cost Recovery Program; and

Through the Cost Recovery Program, applicants will be provided with detailed reports indicating the reviews conducted, the charges accrued and the remaining account balances to ensure predictability and efficiencies within the process.

(A) Cost Recovery Program Monitoring.

1. On a quarterly basis, the Town of Davie shall conduct a review of the Cost Recovery Program and document the following:
 - a. The direct costs of development review, describing and detailing the total hours spent per project account including but not limited to: Town staff utilized, professional services utilized, Town Attorney time, and any other direct costs associated with an application.
 - b. The administrative costs of development review, describing and detailing the total hours spent per project account including, but not limited to: Finance Department tracking and processing, administrative review, and dispute resolution, if any.
 - c. The staff time and associated billing rates of development review, describing and detailing the following: hours spent per project account, hours spent on the cost recovery program, and professional services utilized and their associated costs.

- d. The revenues collected through the cost recovery program, describing and detailing the amounts collected per cost recovery account and the amounts generated on a weekly, monthly, and quarterly basis.

The monitoring is to ensure that all costs expended by the Town are being adequately covered to offset additional reliance on taxpayer's dollars for development review.

- (B) **Program Evaluation.** A monitoring report, based on the above documentation, shall be used to routinely evaluate the success of the Cost Recovery Program to ensure that the overall hours spent by Town Staff and professional services is equal to the hourly rate, plus benefits (if any) paid and received by the Town and charged for professional services under the supplemental services method.
- (C) **Project Account Monitoring.** Throughout the development review process, periodic monitoring of the project account shall be conducted by the assigned project manager. A written report will be presented to the applicant indicating the staff hours spent on the project, the hourly rates accrued through project review, the remaining balance of account, and the remaining anticipated review.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 5. The schedule of fees, 'Exhibit A' shall be established by separate Resolution.

SECTION 6. This Ordinance was adopted after a public hearing was held upon the subject matter. Notice was published as required by law, on _____, 2002 , in the Town Council Chambers, Davie, Florida.

SECTION 7. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 8. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS ____ DAY OF _____, 2002

PASSED ON SECOND READING THIS ____ DAY OF _____, 2002

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2002

DEVELOPMENT REVIEW FEES

	CURRENT FEES FOR DAVIE	MEDIAN FEES	PROPOSED FEES FOR DAVIE
PLATTING:			
Non-Residential (1)	330	1625	1135
plus per acre (2)	50	50	50
Residential Boundary Plat (1)	70	1625	1135
plus per acre (1)	8	43	30
Residential lot specific plat (3)	200	1625	325
plus per acre	40	20	40
plus per residential unit	20	10	20
PLAT REVISION AND DELEGATION REQUEST (1)	195	715	500
Delegation - Access Non-Vehicular Access Line			500
Delegation Regulation - Plat Note Amendment			500
SITE DEVELOPMENT PLANS			
Residential plans (1)	340	1875	1050
+\$10/unit for up to 40 units (1)	10	18	12
+\$5/unit for each additional unit above 40 (1)	5	18	12
Non-residential plans (1)	340	618	430
+\$4/100 sq. ft. of gross floor area to 10,000 sq ft. (1)	4	10	7
+2/100 sq ft of gross floor area above 10,000 sq ft. (1)	2	10	7

June 19, 2002 Revised August 15, 2002

General Notes:

- Further revisions have been made to reflect made by the Budget Advisory Committee on Monday June 17, 2002.
- Median fees are based on fee schedules received from municipalities surrounding Davie
- (1) Proposed fees are based on 70% of median fees.
- (2) When median fees are less than Davie's current fees then the fee remained the same.

- (3) Residential Lot Specific fee increased by 20% to avoid impacts on individual homeowners (see Line 11).
- (4) Site Plan Modifications
 - Internal modifications are 50% of proposed fees for SPC Review only
 - DRC Review are Full Fee and are based on 70% of Median Fee
 - Modification requiring SPC only are 50% of Full Fee
- N/A - Fees have either been included elsewhere or municipalities do not have the fee in place
- TBD – To Be Determined

	<u>CURRENT FEES FOR DAVIE</u>	<u>MEDIAN FEES</u>	<u>PROPOSED FEES FOR DAVIE</u>
SITE PLAN MODIFICATIONS			
Internal (4)	0	N/A	260
modifications requiring DRC Review (4) [Non material modification]	340	675	525
modifications requiring SPC Review (4)	165	1500	1050
 SIGNAGE APPLICATION / SITE PLAN (1)	 30	 225	 150
 LAND USE PLAN AMENDMENTS			
Base fee (1)	3400	5000	3500
+\$20/acre for up to 25 acres (1)	20	45	30
+\$10/acre for each additional acre above 25 (1)	10	45	30
+\$5/for each acre above 100 (1)	5	45	30
 REZONING			
Base fee (1)	1170	1125	1170
Utilization of Flexibility Rule (1)	1550	1750	1550
 SPECIAL PERMITS			
Base fee (1)	930	750	930

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	<u>CURRENT FEES FOR DAVIE</u>	<u>MEDIAN FEES</u>	<u>PROPOSED FEES FOR DAVIE</u>
VARIANCES			
Developed single family lots (1)	400	675	470
Administrative non-use special permits (1)	299	1000	700
All other requests (1)	930	925	930
VACATION OF RIGHT OF WAY			
Base fee (1)	930	875	930
DEVELOPMENT OF REGIONAL IMPACT (DRI) REVIEW (1)			
Modification to approved DRI (non-substantial deviation) (1)	5000	12750	8925
Modification to approved DRI (substantial deviation) (2)	600	4000	2800
	4000	4750	4000
LANDSCAPE INSPECTION			
Residential (1)	25	125	90
Non-Residential (2)	100	125	100
TREE REMOVAL / REPLACEMENT PERMIT			
If tree is transplanted or equivalent replaced (2)	30	30	30
Removal permit (1)		122	85

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	<u>CURRENT FEES FOR DAVIE</u>	<u>MEDIAN FEES</u>	<u>PROPOSED FEES FOR DAVIE</u>
ADDRESSES			
Base fee - one address / street (1)	25	150	105
Each additional address / street (1)	5	150	105
ALCOHOLIC BEVERAGE LICENSE REVIEW (2)	15	N/A	20
DEVELOPERS AGREEMENT REQUIRING COUNCIL ACTION (2)	250	N/A	250
REQUEST FOR VESTED RIGHTS DETERMINATION			
minimum (2)	100	N/A	100
REQUESTED REVIEW BY LEGAL STAFF OF ZONING DETERMINATIONS			
minimum (1)	100	500	350
FINAL SITE INSPECTION (2)	200	175	200
MULTI-DISCIPLINARY CONSULTANT FEES			TBD
SUPPLIMENTAL SERVICES (OTHERS TBD)			TBD
Transportation			TBD
Wildlife			TBD
Environment			TBD
Other			TBD

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	<u>DAVIE CURRENTLY</u>	<u>MEDIAN FEES</u>	<u>DAVIE PROPOSED</u>
MASTER DEVELOPMENT PLAN			
Residential plans (2)	340		340
+\$10/unit for up to 40 units (2)	10		10
+\$5/unit for each additional unit above 40 (2)	5		5
Non-residential plans (2)	340		340
+\$4/100 sq ft of gross floor area up to 10,000 sq ft (2)	4		4
+\$2/100 sq ft of gross floor area above 10,000 sq ft. (2)	2		2
TEMPORARY USE PERMIT			
Real estate development activity (2)	300		300
General (2)	100		100
ALL REQUIRED ADVERTISING COSTS SHALL BE REIMBURSED BY THE APPLICANT PRIOR TO ACTION BY TC			
ZONING DETERMINATION LETTER (2)	25		25
AMENDMENT TO THE LAND DEVELOPMENT CODE (2)	1500		1500

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- ☐ *N/A - Fees have either been included elsewhere or municipalities do not have the fee in place*
- ☐ *TBD – To Be Determined*